

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**RIVER NORTH FARMS INCORPORATED**

**PLAINTIFF**

**VS.**

**CIVIL ACTION NO.: 4:16-CV-131-DMB-SAA**

**GNS FRAC, LLC, AND CAVE CITY SAND, LLC**

**DEFENDANTS**

**ORDER**

On June 27, 2016, this court issued an order to defendant Cave City Sand, LLC to show cause as to why this case should not be dismissed due to the absence of diversity under 28 U.S.C. § 1332. Docket 9. In its original notice of removal, Cave City Sand, LLC asserted only that “plaintiff is an Oklahoma corporation,” that “GNS Frac, LLC is an Alabama limited liability company qualified to do business in the state of Mississippi,” and that “Cave City Sand, LLC is a Delaware corporation.” Docket 1, p. 2.

On July 4, 2016, and in response to the court’s order to show cause, Cave City Sand, LLC filed an amended notice of removal. Docket 13. Cave City Sand, LLC thoroughly detailed plaintiff’s state of incorporation and principal place of business, as well as the identities of the individual members of the two LLC defendants. However, when detailing its own members and those of GNS Frac, LLC, Cave City did not list the **citizenship** of each LLC’s members. Instead, Cave City listed the **residency** of the LLC members.

For purposes of diversity jurisdiction, the domicile of the parties, as opposed to their residence, is the key. *See Combee v. Shell Oil Co.*, 615 F.2d 698, 700 (5<sup>th</sup> Cir. 1980). A party’s residence in a state alone does not establish domicile. *Preston v. Tenet Healthsystem Mem’l Med. Ctr.*, 485 F.3d 793, 798 (5<sup>th</sup> Cir. 2007). Because an allegation of residency is not sufficient

for diversity jurisdiction purposes, a plaintiff must allege **citizenship** to satisfy the requirements of 28 U.S.C. § 1332(a). *See Nadler v. Am. Motors Sales Corp.*, 764 F.2d 409, 413 (5<sup>th</sup> Cir. 1985). A limited liability company's citizenship is determined by the **citizenship** of each of its members. *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1079-80 (5th Cir. 2008) (emphasis added).

Because Cave City only listed the residencies of the LLC members in the amended notice of removal, it has not established the citizenship of the parties and consequently has not met its burden of establishing jurisdiction. The court applauds Cave City for its detailed accounts of its membership and those of GNS Frac, LLC. However, in order to appropriately establish diversity jurisdiction in this court, Cave City Sand, LLC must file a second amended notice of removal asserting an appropriate basis for federal court jurisdiction (i.e. the **citizenship** of the LLC members) within seven (7) days of the date of this order.

**SO ORDERED** this, the 7th day of July, 2016.

/s/ S. Allan Alexander  
**UNITED STATES MAGISTRATE JUDGE**